

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

JAKE MANDEVILLE-ANTHONY,
an individual,

Plaintiff,

v.

THE WALT DISNEY COMPANY,
WALT DISNEY PICTURES,
DISNEY ENTERPRISES, INC.,
PIXAR d/b/a PIXAR ANIMATION
STUDIOS; and DOES 1-10, inclusive,

Defendants.

Case No. CV 11-2137 VBF (JEMx)

Complaint Filed: March 14, 2011

**~~PROPOSED~~ ORDER GRANTING
DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS
AND DISMISSING COMPLAINT
WITH PREJUDICE**

Hon. Valerie Baker Fairbank

///

///

///

1 Defendants The Walt Disney Company's, Walt Disney Pictures', Disney
2 Enterprises, Inc.'s and Pixar's ("Defendants") Motion for Judgment on the Pleadings
3 came before the Court on July 25, 2011. After considering the parties' briefs and the
4 their respective works (incorporated by reference in the Complaint), the Court
5 **ORDERS** as follows:

6 (1) Plaintiff's works, *Cookie & Co.* and *Cars/Auto-Excess/Cars Chaos* and
7 Defendants' works, *CARS*, *CARS 2*, and *CARS Toon: Mater's Tall Tales*, are not
8 substantially similar as a matter of law. *Zella v. E.W. Scripps Co.*, 529 F. Supp.
9 2d 1124, 1130 (2007); *Funky Films v. Time Warner Ent. Co.*, 462 F.3d 1072, 1077
10 (9th Cir. 2006). Among other things, the protectable elements of the parties'
11 respective works are dissimilar in plot, sequence of events, pace, themes, dialogue,
12 mood, setting, and characters. *Id.* Accordingly, Plaintiff's First Cause of Action for
13 copyright infringement is **DISMISSED** with prejudice.

14 (2) Plaintiff's Second Cause of Action for Breach of Implied Contract is
15 **DISMISSED** with prejudice because it is barred by the applicable two-year statute
16 of limitations. Cal. Code Civ. Proc. § 339(1); *Thompson v. California Brewing*
17 *Company*, 191 Cal. App. 2d 506, 507 (1961).

18 Accordingly, pursuant to FRCP 12(c), judgment on the pleadings is entered in
19 favor of Defendants, and Plaintiff's Complaint is **DISMISSED** in its entirety with
20 prejudice. Judgment shall be entered in favor of Defendants against Plaintiff.

21
22 **IT IS SO ORDERED.**

23 Dated: 7-27-11



24
25 Hon. Valerie Baker Fairbank
26 United States District Court Judge
27
28